



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,687	12/05/2003	Gary L. Hopkins SR.	ST288/00ST8-U	4572

7590 07/26/2005

JOHN V. MORIARTY
WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE-SUITE 3700
BANK ONE TOWER/CENTER
INDIANAPOLIS, IN 46204-5137

EXAMINER

LEUNG, PHILIP H

ART UNIT	PAPER NUMBER
----------	--------------

3742

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,687

Applicant(s)

HOPKINS, GARY L.

Examiner

Philip H. Leung

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The replacement drawing sheets filed 5-18-2005 are acceptable.
2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3-5 and 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "said first and second bottom surface patterns are selected from the group consisting of a flat pattern" in claims 1, 5 and claim 10 is vague and indefinite because the first bottom surface pattern has been defined as "having a plurality of projections" and therefore cannot be "a flat pattern" as claimed. Therefore, "flat pattern" must be excluded from "the first bottom surface pattern". Furthermore, in claim 9, the terms "said first compartment" at line 3 and "said second compartment" at line 4 have no proper antecedent basis. It is also suggested the term "a plurality projections" at line 4 of claim 1 be rewritten as "a plurality of projections" instead. Clarification and correction are required.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3742

5. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopkins (US 6,187,354) (previously cited), in view of Chiba (5,229,564) or Frankowski (US 5,062,356) (both newly cited).

Hopkins shows in Figure 13, a microwave cooking tray, comprising: a base 12 having a plurality of compartments, each compartment 18 having a bottom surface, the bottom surface of a first compartment having a plurality of first projections arranged in a first bottom surface pattern, the bottom surface of a second compartment having a plurality of second projections 20 arranged in a second bottom surface pattern and a covering 14 secured to said base and sealing each compartment. Although it does not show each of said first projections has a shape distinct from a shape of each of said second projections, it shows a different pattern projection arrangement in each of the compartment; that is, one has 7 ribs and the other one has only five. Also, the ribs are of different lengths. Chiba shows a microwave tray 1 with plural compartments (recesses 2) for many food objects. The recesses 2 may be formed with different bottom shapes for molding different food objects (see Figures 1-9). Frankowski also shows a baking tray having molds of different shapes (see Figures 2 and 3). It would have been obvious to an ordinary skill in the art to modify Hopkins to form each bottom surface with different shapes so that food of different shapes can be formed by baking, in view of the teaching of Chiba or Frankowski. In regard to claim 10, the exact shapes would have been a matter of engineering variations depending on the food objects to be heated. In regard to claim 11, Hopkins shows the use of vents 35 (see Figures 3-6).

Art Unit: 3742

6. Claims 1, 3-5, 7 and 8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. Applicant's arguments with respect to claims 9-11 have been considered but are moot in view of the new ground(s) of rejection. The claimed arrangement for the bottom projections having different shapes in new claims 9-11 is only seen as a matter of design for different food objects having different shapes, as there is no requirement in the claims that the bottom shapes are designed for optimal cooking of the different food types to be cooked as in claims 1 and 5.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

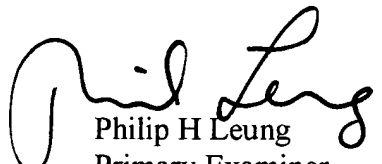
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3742

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (571) 272-4782.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 472-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Philip H Leung
Primary Examiner
Art Unit 3742

P.Leung/pl
7-20-2005